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Government of Kerala
1984

Reg No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Friday, 23rd March 1984 / 3rd Chaithra 1906 (Saka) [No. 236

GOVERNMENT OF KERALA

Revenue (F) Department

NOTIFICATION

No. G. O. (Rt.) 487/84/RD. *Dated, Trivandrum, 23rd March 1984.*

S. R. O. No. 270/84.—In exercise of the powers conferred by sections 3 and 4 of the Guruvayoor Devaswom Act, 1978 (14 of 1978), and in supersession of the notification G. O. (Rt.) 39/82/RD dated the 14th January, 1982, published as S.R.O. No. 55/82 in the Kerala Gazette Extraordinary No. 34 dated the 14th January, 1982, the Government of Kerala hereby reconstitute with effect from the 23rd March, 1984, the Guruvayoor Devaswom Managing Committee consisting of the following members, namely:—

1. The Zamorin Raja;
2. The Karanavan of the Mallisseri Illom at Guruvayoor;
3. The Thanthri of the Temple, *Ex-officio*;
4. Shri P. Ramakrishnan Nair, Paliathu House, Thycaud P. O., Guruvayoor; — Representative of the employees of the Devaswom nominated by the Hindus among the Council of Ministers under clause (d) of subsection (1) of section 4 of the Act;

5. Shri K. Gopalan,
Post Makkada.
via Kakkodi,
Kozhikode;
6. Shri P. K. Narayana Panicker,
General Secretary,
Nair Service Society,
Changanacherry-2;
7. Shri K. Thankappa Menon,
Bynts Cottage,
Pudukkad-680 301,
Trichur;
8. Shri P. T. Mohanakrishnan,
P. O., Eramangalam,
Ponnani Taluk;
9. Shri P. Gopinathan,
General Secretary,
S.N.D P. Yogam,
Quilon.

} Nominated by the Hindus among the Council of Ministers under clause (e) of subsection (1) of section 4 of the Act.

By order of the Governor,

U. Mahabala Rau,
Secretary to Government.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport)

The term of the members of the Guruvayoor Devaswom Managing Committee nominated under clause (d) and clause (e) of subsection (1) of section 4 expired on 13-1-1984. The notification is to nominate members to the above vacancies.

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TRIVANDRUM, 1984.

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EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Friday, 23rd March 1984 / 3rd Chaithra 1906 (Saka) [No. 237

GOVERNMENT OF KERALA

Home (E) Department

NOTIFICATION

G. O. Rt. No. 793/84/Home. *Dated, Trivandrum, 21st March* 1984.

S. R. O. No. 271/84.—Under clause (s) of section 2 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and in supersession of the notification issued under G. O. Rt. 1779/75/Home dated the 3rd September, 1975 and published as S. R. O. No. 810/75 in the supplement to Part I of the Kerala Gazette No. 37 dated the 23rd September, 1975 relating to the location of the Adimali Police Station and in modification of the notification published under G. O. Rt. No. 1165/78/Home dated the 12th June, 1978, as S. R. O. No. 591/78 in the Part I of the Kerala Gazette No. 26 dated the 27th June, 1978, in so far as it relates to the area of jurisdiction of the Adimali Police Station, the Government of Kerala hereby declare that building No. VII/22 of Mannamkandom Panchayat, Mannamkandom Village in Devicolam Taluk shall be a Police Station known as "Adimali Police Station" with jurisdiction over the local areas specified under column (4) of the Schedule below :

33/1094/B.

SCHEDULE

Name of Police Station	*Taluk*	*Village*	*Local area of jurisdiction Karas/Desoms*
(1)	(2)	(3)	(4)
Adim[illegible]	Devicolam	1. Mannamkandom	1. Erunoore akker (200 acre)
			2. Koombanpara (Part)
			3. Mannamkandom
			4. Chottupara
			5. Machiplavu
			6. Valara
			7. Kanjiraveli
			8. Mamalakandom
		2. Pallivasal	1. Koombanpara (Part)
			2. Anaveratty (Part)
			3. Eruttukanam
			4. Kallar
			5. Kurusupara
			6. Kottappara
			7. Plamala
			8. Kunjithanni (Part)
			9. Chithirapuram
			10. Pallivasal (except Pallivasal tea Estate)
		3. Vellathooval	1. Vellathooval
			2. Chethampara
			3. Kuthupara
			4. Changulam
			5. Koombanpara (Part)
			6. Ayiram Acre (1000 Acre)
			7. Kathipara
			8. Kunchithanni (Part)
			9. Elleckal

(1)	(2)	(3)	(4)
			10. Pothupara
			11. Anaveratty (Part)
			12. Mankadavu
			13. Panamkutty
			14. Kallarkutty

This notification shall come into force on and with effect from 24th March, 1984.

By order of the Governor,

P. V. RADHALAKSHMI,
Additional Secretary to Government.
(Home).

Explanatory Note

(This does not part of the notification but is intended to indicate its general purport).

A building has been constructed at Adimali for the Police Station The Police Station has to be shifted to the new building.

This notification is issued with a view to achieve the above object.

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1984

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Friday, 23rd March 1934 / 3rd Chaithra 1906 [No. 235

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1953/LA. 4A/84. *Dated, Trivandrum, 23rd March, 1984.*

The Kerala Water and Waste water Bill, 1984 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,

Secretary.
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/1090/MC.

Seventh Kerala Legislative Assembly
Bill No. 111

THE KERALA WATER AND WASTE WATER BILL, 1984

Arrangement of Sections

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33/1090/MC.

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Seventh Kerala Legislative Assembly
Bill No. 111

THE KERALA WATER AND WASTE WATER BILL, 1984

A

BILL

to provide for the establishment of an autonomous authority for the development and regulation of water supply and waste water collection and disposal in the State of Kerala and for matters connected therewith.

Preamble.—WHEREAS it is considered necessary to provide for the establishment of an autonomous authority for the development and regulation of water supply and waste water collection and disposal in the State of Kerala and for matters connected therewith.

BE it enacted in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Water and Waste Water Act, 1984.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 1st day of March, 1984.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(i) "Authority" means the Kerala Water and Waste Water Authority constituted under section 3;

(ii) "cess-pool" includes a settlement tank or other tank to receive or dispose of foul matters from any premises;

(iii) "Chairman" means the Chairman of the Authority;

(iv) "communication pipe" means any pipe or system of pipes along with all fittings thereto, by means of which water is supplied to any premises from the main and includes a connection pipe, service pipe, meter or other fittings;

(v) "connection pipe" means any water pipe from a ferrule to stop cock connecting the distribution main with the service pipe;

(vi) "consumer" means any person getting the benefit of any water supply or waste water service from the Authority;

(vii) "domestic sewage" means waste water from any residence, boarding or lodging-house, hostel, hotel, public place, office or any such establishment as is not a part of any trade or industry and arising out of personal and normal human activities such as drinking, bathing, ablution, washing and cooking;

(viii) "drain" means every part of any conduit laid through, under or above a street, way or land whether public or private by or at the expense of the owner or occupier of any premises for the carriage therefrom of any waste water to any sewer;

(ix). "ferrule" means a ferrule connecting the connection pipe with the main;

(x) "local area" means the area falling within the jurisdiction of a local body;

(xi) "local body" means a city corporation, a municipal council, a township or a panchayat;

(xii) "main" means a pipe laid by the Authority for the purpose of giving a general supply of water as distinct from a supply to an individual consumer, and includes any apparatus used in connection with such a pipe;

(xiii) "Managing Director" means the Managing Director of the Authority;

(xiv) "member" means a member of the Authority;

(xv) "occupier" in relation to any premises, includes—

(a) any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of those premises;

(b) the owner who is in occupation of the premises;

(c) a tenant of the premises who is exempt from payment of rent;

(d) a licensee who is in occupation of the premises; and

(e) any person who is liable to pay damages to. the owner in respect of use and occupation of the premises.

(xvi) "owner", in relation to any premises, means the person who receives the rent of that premises or who would be entitled to receive the rent thereof if the premises were let and includes,—

(a) an agent or trustee who receives such rent on account of the owner;

(b) an agent or trustee who receives the rent of, or is entrusted with the management of, any premises devoted to religious or charitable purposes;

(c) a receiver or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises; and

(d) a mortgagee in possession;

(xvii) "premises" means any land or building and includes—

(a) the garden, land and outhouses, if any, appertaining to a building or part of a building; and

(b) any fittings affixed to a building or part of a building for more beneficial enjoyment thereof.

(xviii) "prescribed" means prescribed by rules made under this Act;

(xix) "private street" means any street, road, square, court, alley, passage or riding-path which is not a "public street", but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises;

(xx) "public street" means any street, road, square, court, alley, passage or riding-path over which the public have a right of way, whether a thoroughfare or not, and includes—

(a) the roadway over any public bridge or causeway;

(b) the foot-way attached to any such street, public bridge or causeway; and

(c) the drains attached to any such street, public bridge or cause way and the land, whether covered or not by any pavement, veranda, or other structure, which lies on either side of the roadway upto the boundaries of the adjacent property, whether that property is private property or property belonging to the Government;

(xxi) "regulations" means regulations made by the Authority under this Act;

(xxii) "rules" means rules made under this Act;

(xxiii) "service pipe" means any pipe other than the connection pipe beyond the stop cock by means of which the water is supplied to any premises;

(xxiv) "sewage" means night soil and other contents of a water close, latrines, privies, urinals, cess-pools or drains and polluted water from sinks, bath-rooms, stables and other like places and includes trade effluents;

(xxv) "sewer" means a closed conduit for carrying sewage, offensive matter, polluted water, waste-water or sub soil water;

(xxvi) "sewerage" means a system of collection of waste water from a community from its houses, institutions, industry and public places, the pumping treatment and disposal of such waste water, its effluent, sludge, gas and other end products;

(xxvii) "State" means the State of Kerala;

(xxviii) "stop cock" means a stop cock fitted at the end of a connection-pipe away from the main for the purpose of switching off and regulating the water supply to any premises;

(xxix) "street" means a private street or a public street;

(xxx) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced or discharged in the course of any trade or industry including agriculture and horticulture, but does not include domestic sewerage;

(xxxi) "waste water" shall include domestic sewage, spent water and all waste water let out from any industries or by any other source;

(xxxii) "water connection" includes,

(a) a tank, cistern, hydrant, stand pipe, meter or tap, situated on any private property and connected with a main or other pipe belonging to the Authority;

(b) the water pipe connecting such a tank, cistern, hydrant, stand-pipe, meter or tap with such main or pipe;

(xxxiii) "water supply" means a system of providing water to a community for meeting its requirement for drinking and other domestic uses, industry, recreation and various public uses, but does not include providing water for irrigation purposes;

(xxxiv) "water works" includes water channel (including stream, lake, spring, river or canal, well pump, galleries, reservoir, cistern tank), duct, whether covered or open, treatment units, sluice supply main, culvert, engine, water-truck, hydrants, stand-pipe, conduit and machinery, land, building or other things for supplying or used for supplying water or for protecting sources of water supply or for treatment of water.

CHAPTER II

ESTABLISHMENT, CONDUCT OF BUSINESS, FUNCTIONS AND POWERS OF THE AUTHORITY

3. *Establishment of Kerala Water and Waste Water Authority.*—(1) The Government shall, by notification in the Gazette and with effect from such date as may be specified therein, establish an autonomous authority to be called the Kerala Water and Waste Water Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall for all purposes be deemed to be a local authority.

(4) The Authority shall have its head office at Trivandurm and may have offices at such other places as it may consider necessary.

4. *Constitution of the Authority.*—The Authority shall consist of the following members, namely:—

(a) the Minister in charge of Public Health Engineering Department, who shall be the Chairman;

(b) a Managing Director, who shall be a qualified Public Health Engineer with experience in the management and administration of water and waste water systems, appointed by the Government;

(c) the Secretary to Government in charge of Public Health Engineering Department, *ex-officio*;

(d) the Finance Secretary to Government, *ex-officio*;

(e) the Secretary to Government in charge of Local Administration Department, *ex-officio*;

(f) a member representing the local bodies in the State, appointed by the Government; and

(g) a member belonging to a Scheduled Caste or Scheduled Tribe, appointed by the Government.

5. *Disqualification for being a member.*—A person shall be disqualified for being chosen as, and for being a member if he—

(a) has been convicted of an offence involving moral turpitude;

(b) is an undischarged insolvent;

(c) is of unsound mind and stands so declared by a competent court;

(d) holds, except as provided in sections 6 and 7, any office of profit under the Authority;

(e) has directly or indirectly by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature, in any contract or employment with, by or on behalf of the Authority.

6. *Term of office of Managing Director and non-official Member.*—(1) The Managing Director and a member referred to in clause (f) or clause (g) of section 4 shall hold office for a period of three years unless their term is terminated earlier by the Government by notification in the Gazette, and shall be eligible for reappointment.

(2) The Managing Director and the members referred to in sub-section (1) shall hold office on such terms and conditions as the Government may, by order, specify.

(3) The members (including the Managing Director) shall be entitled to such travelling and daily allowances as may be prescribed.

(4) The Managing Director or the members referred to in sub-section (1) may resign his office by writing under his signature addressed to the Ghairman and on such resignation being accepted he shall be deemed to have vacated his office.

7. *Remuneration of Managing Director and filling up of temporary vacancies.*—(1) The Managing Director shall be paid from the Authority's fund such remuneration as may be fixed by the Government from time to time.

(2) If any member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave otherwise in circumstances not involving the vacation of his appointment, the Government may appoint another person to officiate for him and to carry out his functions under this Act.

8. *Appointment of officers and staff.*—(1) Subject to the provisions of sub-section (2), the Authority may appoint for the purpose of enabling it to carry out its powers, duties and functions under this Act, a Secretary and such other officers and staff as may be required against posts duly sanctioned by it with the previous approval of the Government.

(2) The Authority may, with the previous approval of the Government, appoint a servant of the Central Government or the State Government as an employee of the Authority on such terms and conditions as it thinks fit.

(3) Except as provided in this section, the appointment and conditions of service of the officers and employees of the Authority shall be governed by rules made by the Government from time to time.

9. *Supervision and control of employees.*—Subject to the superintendence of the Authority, the Managing Director shall have the general control and direction over all the employees of the Authority.

10. *Authentication of orders and other instruments of the Authority.*—(1) All proceedings of the Authority shall be authenticated by the signature of the Chairman and all orders and other instruments of the Authority shall be authenticated by the signature of such officer of the Authority as may be authorised in this behalf by regulations.

(2) The Authority may invite any person to attend a meeting of the Authority for the purpose of assisting or advising it on any matter and the persons so invited may take part in the proceedings of the Authority, but shall have no right to vote.

11. *Delegation of powers.*—Subject to the provisions of this Act, the Authority may, by general or special order, delegate either unconditionally or subject to such conditions as may be specified in the order, to any committee appointed by it or to the Chairman, or the Managing Director or any other officer of the Authority such of its powers and duties under this Act as it deems fit, not being its powers and duties under sections 25, 28, 29 and 66.

12. *Disqualification for participation in the proceedings of the Authority on account of interest.*—(1) The Chairman or any other member of the Authority or of a committee appointed by the Authority who has acted professionally, in relation to any matter on behalf of any person having any

such share or interest as aforesaid, shall not vote or take part in any proceeding (including any discussion on any resolution or question) of the Authority or of any committee thereof relating to such matter.

(2) If any member of the Authority or of a committee appointed by the Authority has directly or indirectly any interest in any area in which it is proposed to acquire land for any of the purposes of this Act, he shall not take part in any meeting of the Authority or any committee thereof in which any matter relating to such land is considered.

13. *Acts not to be invalidated by irregularity, vacancy, etc.*—No act done or proceeding taken under this Act by the Authority or a committee appointed by the Authority shall be invalidated merely on the ground of—

(a) any vacancy in, or defect in the constitution of the Authority or any committee thereof, or;

(b) any defect or irregularity in the appointment of a person acting as a member thereof, or;

(c) any defect or irregularity in such act or proceeding, not affecting the substance.

14. *Functions of the Authority.*—The Authority shall perform all or any of the following functions, namely:—

(i) preparation, execution, promotion, operation, maintenance and financing of the schemes for the supply of water and for the disposal of waste water;

(ii) rendering all necessary services in regard to water supply and collection and disposal of waste water to the Government and on request to private institutions or individuals;

(iii) preparation of State plans for water supply and collection and disposal of waste water on the directions of the Government;

(iv) fixation and revision of tariffs, taxes and charges of water supply and maintenance service in the areas covered by the water supply and waste water systems of the Authority;

(v) establishment of State standards for water supply and waste water services;

(vi) all functions, not stated herein which were being performed by the Public Health Engineering Department of the Government before the commencement of this Act;

(vii) assessment of the requirements for manpower and training in relation to water supply and sewerage services in the State;

(viii) carrying out applied research for the efficient discharge of the functions of the Authority;

(ix) making provision for the supply of wholesome water and efficient sewerage services to the people in the State;

(x) taking such other measures as may be necessary to ensure water supply in times of emergency; and

(xi) such other functions as may be entrusted to the Authority by the Government by notification in the Gazette.

15. *Powers of the Authority.*—(1) The Authority shall, subject to the provisions of this Act, have power to do anything which may be necessary or expedient for carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing provisions, such power shall include the power—

(i) to obtain such periodic or specific information from any local body as it may deem necessary;

(ii) to prepare and carry out schemes for water supply and sewerage and to exercise all powers and perform all functions relating thereto:

Provided that the power of sanctioning schemes costing more than twenty-five lakhs of rupees shall be exercised only with the previous approval of the Government;

(iii) to lay down the schedule of fees for all services rendered by the Authority to the Government, local bodies, institutions or individuals, to fix or amend tariffs and charges for water supply and sewerage services and collect all such fees and charges for these services as may be prescribed;

(iv) to enter into contract or agreement with any person, firm or institution as the Authority may deem necessary, for performing its functions under this Act:

Provided that any contract or agreement involving more than twenty-five lakhs of rupees shall be entered into by the Authority only with the previous approval of the Government.

(v) to adopt its own budget annually subject to the previous approval of the Government;

(vi) to abstract water from any natural source with the permission of the Government and dispose of waste water;

(vii) to borrow money, issue debentures, to obtain subventions and grants, to incur expenditure and manage its own funds;

(viii) to grant loans and advances to such persons or authorities as the Authority may deem necessary for performing the functions under this Act;

(ix) to acquire, possess and hold lands and other property and to carry any water or sewerage works through, across, over or under any highway, road, street or place and, after reasonable notice in writing to the owner or occupier, into, through, over or under any building or land.

CHAPTER III

VESTING OF PROPERTIES, ASSETS, LIABILITIES AND OBLIGATIONS AND TRANSFER OF EMPLOYEES

16. *Vesting of property in Authority etc.*—(1) As from the date of establishment of the Authority, (hereinafter in this Chapter referred to as "the appointed day"),—

(a) (i) all properties and assets (including water works, buildings, laboratories, stores, vehicles, furniture and other furnishing), all the existing water supply and sewerage services, sewerage works and sewage farms including, as the case may be, all plants, machineries, water works, pumping stations, filter beds, water mains and public sewers in, along, over or under any public street and all buildings, lands and other works, materials, stores and things appertaining thereto; and

(ii) so much of the subsoil appertaining to the said water mains and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining any such water mains and sewers or any pipes and other appliances and fittings connected with such water supply and sewerage services and sewage works and sewage farms which immediately before the appointed day were vested in the Government for the purposes of the Public Health Engineering Department,

shall vest in and stand transferred to the Authority;

(b) all the rights, liabilities and obligations of the Government whether arising out of any contract or otherwise pertaining to the said department including the right to recover arrears of water tax and sewage tax and of any cost or fees relating to water supply and sewerage services shall be the rights, liabilities and obligations of the Authority; and

(c) all the assets, rights, liabilities and obligations of the Kerala State Rural Development Board constituted under the Kerala State Rural Development Board Act, 1971 (15 of 1971), in so far as they pertain to execution of water supply and sewerage schemes in the panchayat areas including the right to recover arrears of annual instalments from panchayats towards expenditure on water supply and sewerage schemes under section 13 of the said Act,

shall be the assets, rights, liabilities and obligations of the Authority.

(2) The properties, assets, rights, liabilities and obligations referred to in sub-section (1) shall be valued in such manner as the Government may determine.

(3) All suits and other legal proceedings instituted or defended or which might but for the vesting and transfer under sub-section (1) have been instituted or defended by or against the Government may be continued or instituted or defended by or against the Authority.

17. *Decision of Government on the vesting of property to be final.*—Where any doubt or dispute arises as to whether any property or asset has vested in the Authority under section 16 or any rights, liabilities or obligations have become the rights, liabilities and obligations of the Authority under that section, such doubt or dispute shall be referred to the Government whose decision thereon shall be final.

18. *Vesting of existing water supply and sewerage services under local bodies.*—(1) As from the date following the expiry of a period of three years from the appointed day or such further period as may be specified by the Government in this behalf by notification in the Gazette,—

(a) all the water supply and sewerage services, sewerage works and sewage farms including all the plants, machineries, pumping stations, distribution lines and public sewers in, along, over or any public street and all buildings, lands and other works, materials, stores and things appertaining thereto;

(b) so much of the subsoil appertaining to the said distribution lines and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining any such distribution lines and sewers or any pipes and other appliances and fittings connected with such water supply and sewerage services and sewerage works; and

(c) all rights, liabilities and obligations including the right to recover arrears of water charges, meter hire and of any cost or fees relating to water supply and sewerage services,

which immediately before the above mentioned date vested in any local body shall vest in and stand transferred to the Authority.

(2) The properties, assets, rights, liabilities and obligations referred to in sub-section (1) shall be valued in such manner as the Government may determine.

(3) Where any doubt or dispute arises as to whether any property or asset has vested in the Authority or any right, liability or obligation has become the right, liability or obligation of the Authority under this section, such doubt or dispute shall be referred to the Government whose decision thereon shall be final and binding on the Authority and the local body concerned.

19. *Transfer of employees to the Authority.*—(1) Save as otherwise provided in this section, every person who was employed in the Public Health Engineering Department of the Government shall, on and from the appointed day become an employee of the Authority and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions, and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the appointed day if this Act had not come into force and shall continue to do so until his employment in the Authority is terminated or until his remuneration or other terms and conditions of service are revised or altered by the Authority under or in pursuance of any law or in accordance with any provision which for the time being governs his service:

Provided that nothing contained in this sub-section shall apply to an employee in the cadres of the Administrative Officers, Financial Assistants, Divisional Accountants, Typists and Stenographers, who, by notice in writing given to the Government and the Authority within such time as the Government may, by general or special order, specify, intimates his intention of not becoming an employee of the Authority:

Provided further that an employee referred to in the preceding proviso shall continue to be an employee under the Government and shall be provided elsewhere in any post or other service under the Government.

(2) The sums standing in the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like fund constituted for them shall be transferred by the Government to the Authority along with any accumulated interest due till the appointed day and with the accounts relating to such funds and the Authority shall, to the exclusion of the Government, be liable for payment of pension, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947) or in any other law for the time being

in force, the transfer of service of an employee to the Authority under sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law and no such claim shall be entertained by any court, tribunal or other authority.

(4) Eevery permanent or temporary employee of the Public Health Engineering Department of the State Government under sub-section (1) shall on and from the appointed day, be a permanent or temporary employee, as the case may be, of the Authority, against a permanent or temporary p'r which shall stand created in the establishment of the Authority with effect on and from the appointed day.

(5) An employee referred to in the first proviso to sub-section (1) shall be deemed to have continued in the service of the Government between the appointed day and the date of relief from the establishment of the Authority after receipt of his notice in writing addressed to the Authority referred to in that proviso and the Authority shall be entitled to reimbursement from the Government of the remuneration paid by it to such employee for such period.

(6) Nothing in any rule, regulation or order applicable to Government servants in relation to retrenchment or abolition of posts shall apply to any employee referred to in sub-section (1).

(7) Notwithstanding anything contained in the foregoing sub-sections, the authority shall be competent to take such disciplinary or other action as it thinks fit or to continue any such action already initiated against or in respect of any employee who becomes an employee of the Authority under sub-section (1) in respect of any act or omission or conduct or record of such employee while he was in the service of the Government.

20. *Transfer of employees of Local Bodies to the Authority.*—(1) Save as otherwise provided in this section, an employee who was employed exclusively in connection with water-supply or sewerage service or sewerage works under a local body whose properties, assets, and water supply and sewerage services have been transferred to the Authority under section 18 shall, on and from the date of transfer of such property and assets to the Authority, become an employee of the Authority.

(2) Notwithstanding anything contained in sub-section (1) but subject to any express agreement to the contrary, any employee referred to therein other than a workman as defined in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), who becomes an employee of the Authority shall be liable for transfer from any establishment or undertaking in which he was employed immediately before the said date to any other establishment or undertaking belonging to the Authority at the same remuneration and on the same terms and conditions as were applicable to them immediately before such transfer.

(3) If any question arises as to whether any person was exclusively employed in connection with the water supply or sewerage services or sewerage works under a local body immediately before the said date, such question shall be decided by the Government.

(4) The sums standing to the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like funds constituted for them shall be transferred by the local body concerned to the Authority along with any accumulated interest due till the said date and with the accounts relating to the said fund and the Authority shall, to the exclusion of the local body, be liable for payment of pension, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, the transfer of services of an employee to the Authority under sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law and no such claim shall be entertained by any court, tribunal or authority.

(6) Every permanent or temporary employee of a local body becoming an employee of the Authority under sub-section (1) shall, on and from the said date be a permanent or temporary employee, as the case may be, of the Authority, against a permanent or temporary post which shall stand created in the establishment of the Authority with effect from the said date.

(7) Nothing in any rule, regulations or order applicable to employees of the local bodies in relation to retrenchment or abolition of posts shall apply to any employee referred to in sub-section (1).

(8) Notwithstanding anything contained in the foregoing sub-sections, the Authority shall be competent to take such disciplinary or other action as it thinks fit or to continue any such action already initiated against or in respect of any employee who becomes an employee of the Authority under sub-section (1) in respect of any act or omission or conduct or record of such employee while he was in the service of the local body.

CHAPTER IV

PROPERTY, CONTRACT, FINANCE, ACCOUNTS AND AUDIT

21. *Execution and registration of contracts etc.*—Every contract for assurance of property on behalf of the Authority shall be in writing and executed by such officer and in such manner as may be provided by the regulations.

22. *Funds of Authority.*—(1) The Authority shall have its own fund to be called the "Kerala Water and Waste Water Authority Fund" which shall be deemed to be a local fund and to which shall be credited all moneys received otherwise than by way of loans by or on behalf of the Authority.

(2) The Authority shall also have another fund to be called the "Kerala Water and Waste Water Authority's Loan Fund" which shall also be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Authority by way of loans.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Authority may, with the previous approval of the Government, constitute such other funds as may be necessary for the efficient performance of its functions under this Act.

(4) All moneys specified in the foregoing provisions and forming part of the funds of the Authority shall be deposited under such detailed Heads of Account as may be prescribed—

(a) into the Public Account of the Government; or

(b) in the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955); or

(c) in a Subsidiary Bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 33 of 1959); or

(d) in any nationalised Bank coming within the scope of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970)or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

and the said account shall be operated upon by such officers of the Authority as may be authorised by the Authority and in such manner as may be prescribed:

Provided that the Authority may invest any sums not required for immediate use in such securities or debentures as may be approved by the Government.

23. *General principles for the Authority's finance.*—The Authority shall not, as far as practicable and after taking credit for any grant or subventions from the Government under section 24, carry on its operations under this Act at a loss and shall so fix and adjust its rates of taxes and charges under this Act as to enable it to meet as soon as feasible the cost of its operations, maintenance and debt service and where practicable to achieve an economic return on its fixed assets.

24. *Grants and subventions to the Authority.*—The Government may, after due appropriation by law of the State Legislature, from time to time make grants and subventions to the Authority for the purposes of this Act on such terms and conditions as the Government may determine.

25. *Power of Authority to borrow.*—(1) Notwithstanding anything contained in any law for the time being in force under which any local body is constituted, the Authority shall with effect from the date of its establishment be the only local authority authorised to borrow any sum of money for water supply and sewerage works.

(2) Without prejudice to the provisions of sub-section (1), the Authority may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act and to such conditions as the Government may; by general or special order, determine, borrow any sum required for the purposes of this Act, whether by the issue of bonds or stock or otherwise or by making arrangements with Banks or other bodies or institutions approved by the Government in that behalf.

(3) Stocks issued by the Authority under this section shall be issued, transferred, dealt with and redeemed in such manner as the Government may, by general or special order, direct.

26. *Depreciation Reserve.*—The Authority shall create a Depreciation Reserve and make annual provision therefor in accordance with such principles as may be prescribed.

27. *Guarantee for loans.*—(1) Government may guarantee the repayment of any loan and payment of interest on all loans made or transferred to the Authority for the purposes of this Act.

(2) The Government shall, so long as any such guarantee is in force, lay before the State Legislature in every year during the budget session, a statement of the guarantees, if any, given during the current financial year and up-to-date accounts of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantee or paid into the said Fund towards repayment of any moneys so paid out.

28. *Estimates of income and expenditure.*—(1) The Authority shall before the commencement of, and may at any time during, a financial year prepare a statement or a supplementary statement, as the case maybe, of the programme of its activities during the year as well as a financial estimate in respect thereof and the same shall be submitted in such manner, in such form and by such dates as the Government may, by general or special order direct, for the previous approval of the Government:

Provided that in the event of such previous approval not being received before the commencement of the financial year for which such financial statement has been submitted, the Authority shall be entitled to expend on all accounts upto an amount not exceeding the amount approved for the corresponding period of the previous financial year and such amount shall not include any sum spent out of grants and subventions during the said period.

(2) Every financial estimate referred to in sub-section (1) shall make provision for the due fulfilment of all the liabilities of the Authority and for the efficient administration of this Act.

(3) Save where in the opinion of the Authority circumstances of extreme urgency have arisen, no sum exceeding one lakh of rupees on account of recurring expenditure or exceeding five lakhs of rupees on account of non-recurring expenditure shall be expended by the Authority in any year of account unless such sum has been included in a financial estimate submitted under sub-section (1) to the Government.

(4) Where any such sum is expended under circumstances of extreme urgency, a report thereon indicating the sources from which it is proposed to meet the expenditure shall be made as soon as practicable to the Government.

29. *Accounts and Audit.*—(1) The Authority shall cause to be maintained such books of accounts and other books in relation to its accounts and prepare an annual statement of account and balance-sheet in such form and in such manner as the regulations may require.

(2) The accounts of the Authority shall be audited by such Auditor, in such manner and at such time as the Government may, by general or special order direct and the Auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information respecting such matters, and shall have such powers in respect of disallowance and surcharge as may be prescribed.

(3) The accounts of the Authority as certified by the Auditor together with the audit report thereon shall be forwarded annually to the Government who may issue such directions to the Authority as they may deem fit and the Authority shall comply with such directions.

(4) The Government shall,—

(a) cause the accounts of the Authority together with the audit report thereon received by it under sub-section (3) to be laid annually before the State Legislature; and

(b) cause the accounts of the Authority to be published in such manner as may be prescribed.

30. *Surcharge.*—(1) The Managing Director or any other member, officer or employee of the Authority shall be liable to surcharge for the loss, waste or mis-application of any money or property of the Authority if such loss, waste, or mis-application is a direct consequence of his neglect or misconduct while acting as such Managing Director or other member or officer or employee.

(2) Procedure of surcharge under sub-section (1) shall be such as may be prescribed.

(3) Any amount found due from any person as surcharge under sub-section (1) as a result of proceedings for surcharge shall be recoverable as arrears of land revenue.

(4) Nothing in sub-section (3) shall prevent the Authority from deducting any amount referred to therein from any sum payable by the Authority on account of remuneration or otherwise to such Managing Director or other member, officer or employee.

CHAPTER V

TAXES, FEES AND CHARGES

31. *Payment of contribution by local bodies.*—The local bodies who are beneficiaries of the water supply, sewerage and other services rendered by the Authority shall pay to the Authority annually, such sums not exceeding the amount of water tax and drainage tax or sewerage tax, as the case may be, due to such local bodies as part of house or property tax levied by them under the Acts constituting such local bodies, in such manner and at such times as may be prescribed.

32. *Cost of Water.*—(1) The Authority shall, by notification in the Gazette, fix the cost of water to be supplied by it according to volume and also the minimum cost to be charged in respect of each connection.

(2) The Authority may in lieu of charging the cost of water according to volume accept a fixed sum for a specified period on the basis of expected consumption of water during that period.

33. *Cost of collection and disposal of waste water.*—(1) The Authority shall, by notification in the Gazette, fix the cost of collection and disposal of waste water according to its volume (which shall be such percentage of the volume of total water supplied to the consumer as may be prescribed) and also the minimum cost to be charged in respect of such collection and disposal.

(2) The Authority may, in lieu of charging the cost of collection and disposal of waste water according to the basis referred to in sub-section (1) accept a fixed sum for a specified period on the basis of expected collection and disposal of waste water during that period.

34. *Meter Rent.*—The Authority may provide water meters and charge such rent for the meter as may be provided in the regulations.

35. *Security Deposit.*—The Authority may demand such sum as security from any consumer in connection with the supply of meter or for sewer connection as provided in the regulations;

Provided that the Authority shall pay interest at such rates as the Government may from time to time determine on any sum so deposited with the Authority.

36. *Fees.*—The Authority may charge such fees for connection, disconnection and re-connection of any water supply or sewer for testing or supervision or for any other service rendered or work executed or supervised as may be provided in the regulations.

37. *Recovery of taxes, fees and other sums due.*—(1) Any sum due to the Authority on account of any tax, fee, cost of water, cost of collection and disposal of waste water, meter rent, penalty, damage or surcharge under this Act shall be recoverable as arrears of land revenue.

(2) Nothing in sub-section (1) shall affect the power of the Authority to cut off in accordance with the regulations the connection of water supply in the event of non-payment by the consumer of any dues referred to in that sub-section.

CHAPTER VI

WATER SUPPLY

38. *Definition of supply of water for domestic purposes.*—The supply of water for domestic purposes under this Act means supply of water for any purpose except the following, namely:—

(a) for any commerce or trade, manufacture or business;

(b) for gardens or for purposes of irrigation;

Explanation.—In respect of premises used solely for residential purposes and having attached kitchen and domestic gardens, such domestic gardens shall not be treated as gardens for the purpose of this clause.

(c) for building purposes;

(d) for fountains, swimming bath, public bath, or tanks or for any ornamental or mechanical purposes;

(e) for animals where they are kept for sale or hire or for the sale of their produce or any preparation therefrom;

(f) for the consumption and use at restaurants, or by inmates of hotels, boarding houses, lodging-cum-boarding houses or residential clubs and for baths used by such inmates;

(g) for the consumption and use by persons resorting to theatres and cinemas;

(h) for making or watering streets;

(i) for washing vehicles where they are kept for sale or hire.

39. *Supply of water by the Authority.*—(1) The Authority shall on an application made in that behalf by the owner or occupier of any premises, grant supply of water for domestic purposes for—

(a) any premises situated within a distance of 30 metres from an existing main; or

(b) any premises situated beyond a distance of thirty metres from an existing main, if the applicant undertakes to bear the cost of extension beyond the distance of thirty metres.

(2) In cases falling under clause (b) of sub-section (1), the Authority shall bear the cost of extension only in respect of so much distance, not exceeding thirty metres as is sufficient to connect the nearest existing main with the outer limit of the premises.

(3) Notwithstanding the fact that the cost of any extension has been borne under clause (b) of sub-section (1) by the person to whom water is supplied, the property therein shall vest in the Authority.

(4) The Authority may on application made in that behalf, grant supply of water for any purpose other than domestic purposes.

(5) The supply of water for domestic or other purposes shall be subject to such terms and conditions as may be provided by regulations.

(6) Notwithstanding anything to the contrary contained in the regulations referred to in sub-section (5), the Authority may supply water to the Government or any local authority or other statutory corporation or to any educational institution on such terms as to payment and as to the period and conditions of supply as may be agreed upon.

40. *Water supply for domestic purposes not to be used for non-domestic purpose.*—No person shall, except in such circumstances or subject to such conditions as may be provided by the regulations, use or allow to be used water supplied for domestic purposes for any other purpose.

41. *Provision of fire hydrants.*—(1) The Authority may, at the request and expense of the owner or occupier of any factory or any shop or commercial establishment provide and maintain fire hydrants, together with all incidental work for the supply of water in case of fire in such factory, shop or commercial establishment and in any such case charge from such owner or occupier the cost of water supplied in connection therewith.

(2) The Authority shall provide and maintain fire hydrants together with all incidental works for the supply of water in case of fire at such other places as may be considered necessary by a joint committee of the officers of the Authority and the Fire Services Department of the Government and supply water in connection therewith.

42. *Provision of water meters.*—(1) The Authority may provide a water meter and attach the same to the service pipe in premises connected with the water works of the Authority.

(2) The expenses of installation and the rent for the use of water meter referred to in sub-section (1) shall be paid by the consumer.

(3) The provision of water meters and the transfer of connection thereto, the use, maintenance and testing of such meters and the expense of installation thereof and their rents and the furnishing of security, if any, in connection therewith shall be regulated by regulations.

43. *Licensed plumbers.*—(1) No person other than a licensed plumber of the Authority or person duly authorised by it shall execute any work in respect of a water connection not being a work of a trivial nature and no person shall permit any such work to be executed by a person other than a licensed plumber or by a person duly authorised by the Authority.

(2) When any work is executed in contravention of the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Authority.

44. *Prohibition of wastage of water.*—(1) No owner or occupier of any premises to which water is supplied by the Authority shall cause or suffer any water to be wasted or cause or suffer the service pipe or any tap or other fitting or work connected therewith to remain out of repair so as to cause wastage of water.

(2) Whenever the Authority has reason to believe that as a result of defect in a service pipe or tap or other fitting or work connected therewith water is being wasted, the Authority may, by written notice require the consumer to repair and make good the defect within such time as may be specified in the notice.

(3) If such repair is not carried out within the time specified, the Authority may without prejudice to any action against the consumer under any other provision of this Act, cause such repair to be made, and the cost of such repairs shall be realised from the consumer.

45. *Power to cut off water supply.*—(1) The Authority may cut off the water supply from any premises,—

(a) if any tax, fee, rental, cost of water or any charge or other sum due under this Act is not paid within a period of thirty days after service of a bill for the same; or

(b) if after the receipt of written notice from the Authority requiring him to refrain from so doing, the consumer continues to use the water or to permit the same to be used in contravention of the provisions of this Act or any rule or regulations made thereunder; or

(c) if the consumer damages or causes to be damaged the water meter or any connection pipe or ferrule; or

(d) if the consumer refuses to admit any officer or servant of the Authority duly authorised in this behalf into the premises which he proposes to enter for the purpose of executing any work or placing or removing any apparatus or of making any examination or enquiry in connection with the water supply or prevents any such officer or servant from executing any work, or placing or removing any apparatus or making such examination or enquiry; or

(e) if the service pipe or any tap or other fitting or work connected therewith is found on examination by an officer or servant of the Authority duly authorised in that behalf to be out of repair, to such an extent as to cause wastage or contamination of water and immediate prevention thereof is necessary; or

(f) if the consumer causes or allows to be caused the service pipe or any tap or other fitting or work connected therewith to be placed, removed, repaired or otherwise interfered with, in contravention of the provisions of this Act or of the rules or regulations made thereunder; or

(g) if by reason of leakage in the service pipe or any tap or other fitting or work, damage is caused to a public street and immediate prevention thereof is necessary.

(2) No action taken under or in pursuance of this section shall relieve a person from any penalty or liability which he may otherwise have incurred.

(3) The Authority may re-connect the supply of water disconnected under sub-section (1) on payment of such charges and on such terms and conditions as may be provided by regulations.

46. *Prohibition of certain acts.*—(1) No person shall—

(a) wilfully obstruct any person acting under the orders of the Authority in setting out the lines of any work or pull up or remove any

pillar, post or stay fixed in the ground for the purpose of setting out the lines of such works, or deface or destroy any works made for the same purpose; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Authority; or

(c) unlawfully obstruct the flow of or flush, draw off, or divert, or take water from, any water works belonging to the Authority or any water course by which any such water is supplied; or

(d) obstruct any officer or other employee of the Authority in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water works; or

(e) bathe in, at or upon any water works, or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water works or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause water of any sink, or drain or any steam engine or boiler or any polluted water to turn or be brought into any water works or do any other act whereby the water in any water works is fouled or likely to be fouled.

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

CHAPTER VII

SEWERAGE

47. *Right of owner or occupier to obtain sewer connection.*—The owner or occupier of any premises shall be entitled to empty sewage of the premises into a sewer of the Authority provided that before doing so he—

(a) obtains written permission of the Authority and pays connection fee in accordance with the regulations; and

(b) complies with such other conditions as may be provided by the regulations.

48. *Power to require owner to have sewer connection.*—Where any premises are, in the opinion of the Authority without sufficient means of effectual disposal of sewage and the sewer of the Authority is situated at a distance of not more than fifty metres from any part of the premises, the Authority may, by written notice, require the owner of the said premises to have sewer connection as provided by the regulations.

49. *Prohibition of connection with sewer.*—No person shall without the permission of the Authority make or cause to be made any connection or communication with any sewer of the Authority.

50. *Prohibition of construction of buildings, etc., over sewer.*—(1) No person shall without the permission of the Authority construct any private street, building, wall, fence or other structure on any sewer of the Authority.

(2) If any private street be constructed or any building, wall, fence or structure erected on any sewer as aforesaid without the written permission of the Authority, the Authority may remove or otherwise deal with the same as it thinks fit.

(3) The expenses incurred by the Authority in so doing shall be paid by the owner of the private street or of the building, fence, wall or other structure or as the case may be, by the person offending and shall be recoverable as an arrear of charges payable under this Act.

51. *Power to affix shaft, etc., for ventilation of sewer or cess-pool.*—The Authority may for the purpose of ventilating any sewer or cess-pool, whether vested in the Authority or not, erect upon any premises or affix to the outside of any building or to any tree any shaft or pipes as may appear to it to be necessary.

52. *Power to examine and test sewer etc., believed to be defective.*—(1) Where it appears to the Authority that there are reasonable grounds for believing that a private sewer or cess-pool is in such condition as to be prejudicial to public health or to be a public nuisance or that a private sewer communicating directly or indirectly with a sewer of the Authority is so defective as to admit sub-soil water or grit or other material it may examine its condition and for that purpose may apply any test, not being a test by water under pressure and if it deems necessary, open the ground.

(2) If on examination, the sewer or cess-pool is found to be in proper condition, the Authority shall as soon as possible, re-instate any ground which has been opened by it.

(3) If, the sewer or cess-pool so examined is found to be defective, the Authority may forthwith stop its functioning or dis-connect it from the sewer of the Authority, or require the owner or occupier to take remedial action as directed and within such time as may be specified by the Authority and in any such event the Authority may recover the cost incurred by it from the owner or occupier, as the case may be.

Chapter VIII

GENERAL PROVISIONS

53. *Power of entry, survey, inspection, etc.*—(1) Any officer of the Authority authorised by it in that behalf may with or without assistance or workmen enter into or upon any premises in order—

(a) to make any inspection, survey, measurement or enquiry;

(b) to take level;

(c) to dig or bore into the sub-soil;

(d) to set out boundaries and intended lines of work;

(e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) to do any other thing necessary for the purpose of this Act or any rule or regulation made thereunder:

Provided that—

(i) no such entry into a building shall be made between sunset and sunrise;

(ii) no dwelling house or place shall be so entered except with the consent of the occupier thereof or without giving the occupier at least twenty-four hours' notice of the intention to make such entry;

(iii) reasonable opportunity and facility shall be allowed to the women occupying any part of a dwelling house to withdraw; and

(iv) due regard shall, so far as feasible, be paid to the social and religious customs and usages of the occupants of the premises entered into.

(2) Whenever any officer of the Authority authorised under sub-section (1) enters into or upon any premises in pursuance of that sub-section, he shall, at the time of such entry pay or tender payment for the damage, if any, to be caused by any act as aforesaid and in case of dispute as to the sufficiency of the amount of compensation, such dispute shall be referred to the Chairman whose decision thereon shall be final.

(3) When any person is entitled to enter into or open any premises in exercise of the powers under sub-section (1) he may also enter in similar manner into or upon any adjoining premises for any work authorised by or under this Act, or for the purpose of depositing therein any soil, stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(4) It shall be lawful for any officer authorised in this behalf by the Authority to make any entry into any place to open or cause to be opened any door, gate or other barrier,—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

(5) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier under sub-section (4), the person authorised in this behalf shall call upon two or more persons of the locality in which the place to be entered into is situated to witness the entry or opening and may issue an order in writing to them or any of them so to do.

(6) The officer so authorised shall in exercise of any power conferred by sub-section (4) do as little damage as may be possible and compensation for such damage shall be payable by the Authority to the owner or occupier of such premises or to both and in the case of any dispute as to the sufficiency of the amount of compensation, the dispute shall be referred to the Chairman, whose decision thereon shall be final.

54. *Power to disinfect tanks, pools, wells.*—(1) Any officer authorised by the Authority in that behalf may have any tank, pool or well cleaned or disinfected after notice to the owner or occupier, if any, when it appears that such cleaning or disinfection is necessary to prevent or check the spread of any dangerous disease.

(2) The cost of cleaning or disinfection referred to in sub-section (1) shall be recoverable from the owner or occupier of such tanks, pool or well.

55. *Directions by the Government.*—(1) In the discharge of its functions, the Authority shall be guided by such directions on questions of policy as may be given to it by the Government.

(2) If any question arises as to whether any matter is or is not a matter in respect of which the Government may issue a direction under sub-section (1), the decision of the Government thereon shall be final.

56. *Annual reports, statistics and returns.*—The Authority shall, after the end of each financial year, prepare and submit to the Government before such date and in such form as the Government may direct a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities, if any, which are likely

to be undertaken by the Authority in the next financial year and the Government shall cause every such report to be laid before the State Legislature as soon as possible after it is received by the Government.

(2) The Authority shall furnish to the Government at such times and in such form and manner as the Government may direct such statistics and returns and such particulars in regard to any proposed or existing schemes or activities of the Authority or any other matter under the control of the Authority as the Government may, from time to time, require.

57. *Duty of local bodies to assist.*—(1) All local bodies shall render such help and assistance and furnish such information to the Authority and shall make available for inspection and examination such records, maps, plans and other documents as it may require to discharge its functions under this Act.

(2) Without prejudice to the other provisions of this Act and notwithstanding anything contained in any other law for the time being in force under which any local body is constituted, the Government may give to any local body such directions as in its opinion may be necessary or expedient for enabling the Authority to perform its functions under this Act and thereupon it shall be the duty of the local body to comply with such directions.

58. *Protection of acts done in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government, the Authority or the Chairman, the Managing Director or other member of the Authority or any officer or servant of the Government or of the Authority for anything which is in good faith done or purported or intended to be done in pursuance of this Act, or any rule, or regulation made thereunder.

59. *Members, officers and servants of the Authority to be public servants.*—The Chairman, Managing Director, members, officers and servants of the Authority shall be deemed when acting or purporting to act in pursuance of the provisions of this Act, or any rule or regulation made thereunder to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Prevention of Corruption Act, 1947 (Central Act 2 of 1947).

Chapter IX

PENALTIES AND PROCEDURE

60. *General penalty.*—Whoever, in any case i which a penalty is not expressly provided by this Act or any rule or regulations made thereunder contravenes, the provisions of this Act or of any rule

or regulation made thereunder or fails to comply with any notice, order or requisition issued under this Act or any rule or regulation made thereunder shall be punishable with fine which may extend to one thousand rupees and in the case of a continuing failure or contravention, with an additional fine which may extend to twenty-five rupees for every day on which such contravention or failure continues after the first conviction.

61. *Offences by companies.*—(1) If the person committing any offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) 'company' means any body corporate and includes a firm or other association of individuals; and

(b) 'director', in relation to a firm, means partner in the firm.

62. *Power to arrest person refusing to give his name and address.*—(1) Where any person in the presence of any officer of the Authority authorised by it by general or special order in that behalf has committed or has been accused of committing or who is reasonably suspected by such officer of committing any offence punishable under this Act refuses or fails on demand by such officer to give his name and address or gives a name or address which such officer has reason to believe to be false he may be arrested by such officer without a warrant, in order that his name or address or both may be ascertained.

(2) The provisions of the sub-sections (2) and (3) of section 42 and of sections 43, 48, 56, 57, 58 and 59 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall *mutatis mutandis* apply in relation to any arrest made under sub-section (1) as they apply to an arrest made under sub-section (1) of section 42 thereof.

63. *Composition of offences.*—(1) The Managing Director or any other officer of the Authority authorised by it by general or special order in that behalf may either before or after institution of the proceedings, compound any offence punishable under this Act on such terms including payment of such composition fee as he may think fit.

(2) Where an offence has been compounded, the offender, if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

64. *Duties of police officers and employees of local bodies.*—It shall be the duty of all police officers and of employees of the local body within whose local area any offence punishable under this Act is committed or attempted to be committed to give immediate information to the Authority or to any officer of the Authority authorised in that behalf, of the commission of, or of the attempt to commit such offence, as the case may be and to assist the officers of the Authority in the exercise of their authority under this Act.

CHAPTER X

RULES, REGULATIONS AND BYE-LAWS

65. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and other conditions of service of officers and employees of the Authority other than such officers and employees employed on contract basis.

(b) the manner of operation of funds by the Authority under sub-section (4) of section 22;

(c) the manner of making provision for Depreciation Reserve and for its utilisation;

(d) the powers of the Auditor under sub-section (2) of section 29;

(e) the manner in which the accounts of the Authority shall be published;

(f) the procedure in respect of surcharge under section 30 including the provision of appeal, if any, in respect thereof;

(g) the extent of contributions and manner of making such contributions by local bodies under section 31;

(h) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

66. *Regulations.*—(1) The Authority may, with the previous approval of the Government make regulations not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Authority.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form a quorum thereat;

(b) the powers and duties of the employees of the Authority;

(c) the management of property of the Authority;

(d) the execution of contracts and assurance of property on behalf of the Authority;

(e) the limits upto which the Managing Director shall be competent to incur recurring or non-recurring expenditure in any financial year without such expenditure being included in the statement under sub-section (1) of section 28;

(f) the maintenance of accounts and the preparation of annual statement of accounts and balance sheet by the Authority;

(g) the procedure for carrying out the functions of the Authority;

(h) the terms and conditions for supply of water for domestic or other purposes;

(i) the installation of meters or transfer of their connection and their use, maintenance, testing, disconnection and reconnection, the fees, the rent, and other charges in respect thereof including the furnishing of security by the consumer and matters connected therewith;

(j) the fee to be paid for connection with a sewer of the Authority and other terms and conditions for such connections;

(k) any other matter for which provision is to be or may be made in regulations

CHAPTER XI

TRANSITORY PROVISIONS AND REPEAL

67. *Transitory provisions.*—(1) Any bye-laws by whatever name called made by the local bodies in relation to the provision of water supply and sewerage services under the Acts constituting such local bodies before the date of constitution of the Authority and in force immediately before the said date shall continue in force to the extent they are not inconsistent with the provisions of this Act, until such time as regulations are framed by the Authority under section 66.

(2) Any water charge, fee or other item of receipt by whatever name called levied by a local body or by the officers of the Public Health Engineering Department before the date of constitution of the Authority and any notification, notice, order or direction in relation to such levy or to the provision of water supply and sewerage services issued immediately before the said date including any assessment of such levy or order for exemption or connection, disconnection or re-connection made or granted or any penalty imposed in respect of the owner or occupier of any premises or any licence issued to a plumber or any order made in connection therewith under any provision of law applicable to the local body having jurisdiction over such area and in force immediately before the said date shall continue in force until other provision or order is made or other proceedings or action taken under this Act by the Authority for levy or assessment or for grant of such licence

or connection or provision of such services and any reference in such notification notice, order, direction, bye-laws or licence to the local body shall be construed as a reference to the Authority and in particular, proceeds of such charges or levy or other items of receipt shall go into the Fund of the Authority:

Provided that in respect of local bodies, this section shall have effect from the date referred to in sub-section (1) of section 18.

68. *Exclusion of powers of local bodies under certain enactments.*—Except as provided in section 67, on and from the day on which the Authority is constituted, and in respect of local bodies, on and from the date referred to in sub-section (1) of section 18,—

(a) any city constituted under the Kerala Municipal Gorporations Act, 1961 (30 of 1961);

(b) any municipality constituted under the Kerala Municipalities Act, 1960 (14 of 1961);

(c) Guruvayur Township constituted under the Guruvayur Township Act, 1961 (43 of 1961);

(d) any panchayat constituted under the Kerala Panchayats Act, 1960 (32 of 1960)

shall have the powers, duties and functions under the said enactments as if the powers, duties and functions assigned by this Act to the Authority including the power to hold any property for purposes of the said duties and functions were excluded from the powers, duties and functions of the corporation, the municipal council, the township committee or the panchayat, as the case may be.

69. *Amendment of Act 15 of 1971.*—With effect from the date on which this Act comes into force either in part or in full, the Kerala State Rural Development Board Act, 1971 (15 of 1971), shall have effect subject to the following amendments, namely:—

(i) in section 7, in sub-section (1), the brackets, letters and words "(a) water supply schemes" and "(b) sewerage schemes" shall be omitted; and

(ii) in section 8, in the Explanation, the words "the Public Health Engineering Department shall be the Engineering Department of the Government in respect of water supply and sewerage schemes and" shall be omitted.

70. *Removal of difficulties.*—(1) The State Government may, for the purpose of removing any difficulty, particularly in relation to the transition from the provisions of the enactments referred to in section 68 to the provisions

of this Act by order, direct that the said enactments shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission not affecting the substance, as it may deem to be necessary or expedient.

(2) Every order made under sub-section (1) shall be laid before the State Legislature.

71. *Repeal and saving.*—(1) The Water and Waste Water Ordinance, 1984 (14 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

At present only about 42% of the rural and 70% of the urban population of the State has been provided with protected water supply. It has become impossible due to paucity of funds, to cover the rest of the population. The Life Insurance Corporation of India, which is the financial agency providing loan assistance for the urban and rural water supply schemes in Kerala has been pressing the State Government for a long time to constitute an autonomous Water Supply and Sewerage Board to cover the entire water supply and sewerage sector in the State as in their opinion such a Board could be economically viable. The Estimates Committee of Parliament in their 38th Report also recommended the formation of an autonomous statutory Water Supply and Sewerage Board in each State as an effective means for increasing the efficiency of financing and operating water supply and sewerage services. The Committee on Estimates (Kerala) had also expressed the view that the setting up of a fully autonomous body would be of great help for exploring financial aid from the Life Insurance Corporation and other agencies for water supply and sewerage schemes comprising urban and rural areas and its speedy execution and has strongly recommended that Government should constitute the Board as early as possible. The Committee reiterated its recommendation in its 5th Report and hoped that the Board would be constituted without delay. Life Insurance Corporation of India have already informed the State Government that they will not finance new water supply and sewerage schemes unless a statutory Board is set up. It was therefore considered expedient to establish an autonomous Authority viz., the Kerala Water and Waste Water Authority, for the State in order to give a forward thrust to the development and regulation of water supply and waste water collection and disposal in the State and for matters connected therewith. The autonomous character of the Authority would enable it to obtain loans from the Life Insurance Coporation and financial assistance from international financial Institutions like the World Bank and to raise loans by issuing debentures, thereby ensuring speedy implementation of the much needed water supply and sewerage schemes in the State.

2. As it was considered necessary to give effect to the proposal immediately and as the Legislative Assembly was not in session, the Kerala Water and Waste Water Ordinance, 1984 (14 of 1984) was promulgated by the Governor on the 1st day of February, 1984, to achieve the object.

3. The Bill seeks to replace the said Ordinance by an Act of the Legislature.

FINANCIAL MEMORANDUM

Clause 24 of the Bill seeks to provide that the Government, after due appropriation by law of the State Legislature, from time to time make grants and subventions to the Authority for the purposes of the Act on such terms and conditions as the Government may determine. For the year 1984-85 an amount of Rs. 2,510 lakhs is required as the recurring expenditure towards the salaries of the staff and the maintenance of the schemes and Rs. 5,409 lakhs is required to meet the non-recurring expenditure (capital expenditure on works of the Authority) which will be made as grant to the Authority under clause 24 of the Bill from the funds included in the Budget Estimate for the year 1984-85 under demand No. XXI (Public Health Engineering Department) under the Heads of Account 282 B Sewerage and Water Supply and 482 Capital Outlay on Sewerage and Water Supply, both Plan and Non-Plan. Hence no additional expenditure from the Consolidated Fund of the State is involved.

Sub-clause (1) of clause 3 of the Bill seeks to empower the Government to establish, by notification in the Gazette and with effect from such date as may be specified therein, an autonomous authority to be called the Kerala Water and Waste Water Authority.

Sub-clause (1) of clause 6 of the Bill seeks to empower the Government to terminate, by notification in the Gazette, the term of office of the Managing Director and a member of the Authority referred to in sub-clause (f) or sub-clasue (g) of clause 4, earlier than their normal term of office. Sub-clause (2) of the said clause, seeks to empower the Government to fix the terms and conditions of service of the Managing Director and the non-official members referred to in sub-clause (f) or sub-clause (g) of clause 4. Sub-clause (3) of the said clause seeks to empower the Government to prescribe the rates of travelling and daily allowance to which the members and the Managing Director shall be entitled.

Sub-clause (1) of clause 10 seeks to empower the Authority to authorise, by regulations, its officers to authenticate the orders and instruments of the Authority.

Clause 11 seeks to authorise the Authority to delegate, by general or special order, either unconditionally or subject to such conditions as may be specified

in the order, to any committee appointed by it or to the Chairman, or the Managing Director or any other officer of the Authority such of its powers and duties under the Act as it deems fit, not being its powers and duties under clauses 25, 28, 29 and 66.

Sub-clause (xi) of clause 14 seeks to empower the Government to entrust to the Authority, by notification in the Gazette, such other functions not specified in sub-clauses (i) to (x) of the said clause.

Sub-clause (I) of clause 18 seeks to empower the Government to specify, by notification in the Gazette, the period on the expiry of which all the water supply and sewerage services, sewage works etc., and all rights, liabilities and obligations of the local bodies shall stand transferred to the Authority.

The first proviso to sub-clause (I) of clause 19 seeks to empower the Government to specify, by general or special order, the date within which an employee in the Gadre of the Administrative Officers, Financial Assistants, Divisional Accountants. Typists and Stenographers in the Public Health Engineering Department may intimate his intention of not becoming an employee of the Authority.

Glause 24 seeks to empower the Government to determine the terms and conditions subject to which Grants and Subventions shall be made by the Government to the Authority.

Sub-clause (2) of clause 25 seeks to empower the Government to determine, by general or special order, the conditions subject to which the Authority may borrow money whether by the issue of bonds or stock or otherwise or by making arrangements with Banks or other bodies or institutions approved by the Government in that behalf. Sub-clause (3) of the said clause seeks to empower the Government to direct, by general or special order, the manner in which the stocks issued by the Authority shall be issued, transferred, dealt with and redeemed.

Sub-clause (I) of clause 28 seeks to empower the Government to direct, by general or special order, the manner and form included and the date by which the Authority shall submit a statement or supplementary statement, as the case may be, of the programme of the activities of the Authority for the financial year and the estimates in respect there of to the Government for previous approval.

Sub-clause (2) of clause 29 seeks to empower the Government to direct, by general or special order, the Auditor by which, the manner in which and the time at which the accounts of the Authority shall be audited. The sub-clause also seeks to provide that the Auditor so appointed shall have such power of requiring the production of documents and the furnishing of information respectively such matters, and shall have such powers in respect of disallowance and surcharge as may be prescribed. Item (b) of sub-clause (4) of the said

clause seeks to empower the Government to prescribe the manner in which the accounts of the Authority shall be caused to be published.

Sub-clause (2) of clause 30 seeks to empower the Government to prescribe the procedure of surcharge under sub-clause (1) of the said clause.

Clause 31 seeks to empower the Government to prescribe the manner in which and the times at which the local bodies shall make annual contributions as provided in the clause to the Authority.

Sub-clause (1) of clause 32 seeks to empower the Authority to fix, by notification in the Gazette, the cost of water to be supplied by it according to volume and also the minimum cost to be charged in respect of each connection.

Sub-clause (1) of clause 33 seeks to empower the Authority to fix, by notification in the Gazette, the cost of collection and disposal of waste water according to its volume (which shall be such percentage of the volume of total water supplied to the consumer as may be prescribed) and also the minimum cost to be charged in respect of such collection and disposal.

Clause 34 seeks to empower the Authority, to fix, by regulations, the rent for the meter.

Clause 35 seeks to empower the Authority to demand such sum as security from any consumer as may be provided in the regulations.

Clause 36 seeks to empower the Authority, to charge such fees for connection, disconnection and reconnection of any water supply or sewer as may be provided in the regulations.

Sub-clause (5) of clause 39 seeks to empower the Authority, to provide, by regulations, the terms and conditions for the supply of water for domestic or other purposes.

Clause 40 seeks to empower the Authority to provide, by regulations the circumstances in which and the conditions subject to which any person shall use or allow to be used water supplied for domestic purpose for any other purpose.

Sub-clause (3) of clause 42 seeks to empower the Authority to regulate, by regulations the provision of water meters and the transfer of connection thereto, the use, maintenance and testing of such meters and the expense of installation thereof and their rents and the furnishing of security, if any, in connection therewith.

Sub-clause (3) of clause 45 seeks to empower the Authority, to provide, by regulations, the charges and the terms and conditions for reconnection of water supply disconnected under sub-clause (1) of the said clause.

Clause 65 seeks to empower the Government to make, by notification in the Gazette, rules to carry into effect the provisions of the Act. Such rules may *inter alia* provide for salaries and allowances and other conditions of service of officers and employees of the Authority other than such officers and employees employed on contract basis, the manner of operation of funds by the Authority, the manner of making provision for depreciation Reserve, the powers of the Auditor, the manner in which the accounts of the Authority shall be published etc.

Clause 66 seeks to empower the Authority to make, with the previous approval of the Government, regulations not inconsistent with the provisions of the Act and the rules made thereunder for the administration of the affairs of the Authority. Such regulations may *inter alia* provide for the summoning and holding of meetings of the Authority, the powers and duties of the employees of the Authority, the management of property of the Authority, the execution of contracts and assurance of property on behalf of the Authority etc.

The above provisions relate to matters of procedure and detail. Moreover the rules to be made under clause 65 shall be subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, thus of a normal character.

M. P. GANGADHARAN